

SITE DEVELOPMENT PERMIT

FILE NO.	H17-059
LOCATION OF PROPERTY	Southeast corner of East Santa Clara Street and South 3rd Street (10 South 3rd Street)
GENERAL PLAN DESIGNATION	Downtown
ZONING DISTRICT	DC Downtown Primary Commercial District
HISTORIC RESOURCE	Contributor in the Downtown Commercial National Register Historic District
PROPOSED USE	Site Development Permit to allow the construction of a 46,290-square foot addition to an existing 44-room hotel (Hotel Clariana), including 63 hotel rooms, for a total of 107 rooms, with 1,525-square foot public eating establishment, a 1,106-square foot pool and spa and a 1,058-square foot fitness space on the ground floor, on a 0.56 gross acre site
ENVIRONMENTAL STATUS	Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (SCH# 2003042127), and addenda thereto, File No. H17-059
APPLICANT/OWNER/ADDRESS	RSTP Investments LLC 100 East Santa Clara Street San Jose, CA 95112

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.** This Site Development Permit will allow the construction of a 46,290-square foot addition to an existing 44-room five-story hotel (Hotel Clariana), including 63 hotel rooms, for a total of 107 rooms, with 1,525-square foot public eating establishment, a 1,106-square foot pool and spa and a 1,058-square foot fitness space on the ground floor, on a 0.56-gross acre site in the DC Downtown Primary Commercial Zoning District. The existing hotel was constructed as a YMCA building in 1913 and is listed as a Contributor in the National Register Historic District.

The primary pedestrian entrances to the hotel would be from both East Santa Clara Street and South Third Street. The proposed vehicle entrance is through a porte cochere one-way drive aisle from South Third Street located on the west corner of the new building addition, also serving as a guest drop-off and pick-up area. The driveway leads to a rear vehicle parking lot with 38 spaces and ten bicycle parking spaces and exists via a two-way entry and exit driveway on to South 4th Street. The hotel includes a restaurant and a check-in lobby

fronting South Third Street. The opposite wing of the L-shaped building includes a fitness room, swimming pool and spa at ground floor level. Floor levels two to five contain 15 guest rooms each and level six has three guest rooms. Emergency stairs are located at the ends of each wing with exits on to public right-of-way.

2. **Site Description and Surrounding Uses.** The subject site is located on the southeast corner of East Santa Clara Street and South 3rd Street, at 10 South 3rd Street. The site is currently developed with a five-story hotel and a surface parking lot. A lot line adjustment (File No. AT19-005) merged three lots to increase the lot size to a total of 0.564-gross acres. The properties surrounding the project site are designated as Downtown on the General Plan Land Use/Transportation Diagram and are in the DC Downtown Primary Commercial Zoning District. Two-story commercial buildings are to the east as well as to the north, across East Santa Clara Street. A three-story commercial building (Odd Fellows building) is to the west across South Third Street and a one-story restaurant is to the south with a four-story multi-family residential building beyond.
3. **Historic Resource Description.** Hotel Clariana (former YMCA building), built in 1913 in the Beaux Arts Architectural Style, is listed in the Historic Resources Inventory as a Contributor in the San Jose Downtown Commercial National Register Historic District. The proposed hotel expansion is considered as both an infill construction as well as a rear addition and will be attached to the south and east end of the existing Contributor such that a small portion of the new building will be partially in the National Register District and the rest will be just outside the district. There are several properties within a 200 feet radius around the project site that are on the City's Historic Resources Inventory (HRI), including the Odd Fellows building, built in 1883, in the Italianate Architectural Style. The National Register District is described as follows:

The San José Downtown Historic District (also known as the San José Commercial District), a National Register of Historic Places (NRHP) district, is located within the area between East Santa Clara Street, South First Street, Second Street, and South Fourth Street (along East Santa Clara Street) to East San Fernando Street. This area contains architecturally and historically significant buildings dating from the 1870s to the early 1940s and continues to serve as Santa Clara Valley's mercantile and financial center. As a listed NRHP property, the district is automatically included on the California Register of Historical Resources (CRHR).

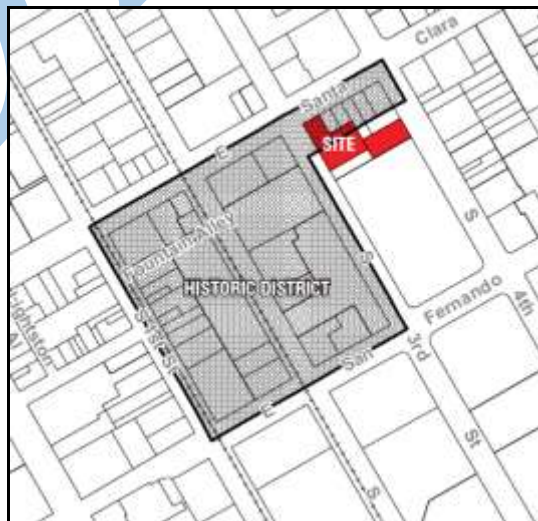


Figure 1: National Register Historic District Map

4. **General Plan Conformance.** The Envision San José 2040 General Plan Land Use/Transportation Diagram designation for the subject site is Downtown. This land use designation is intended for office, retail service, residential and entertainment uses in Downtown. The development within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The proposed hotel development would enhance the complete community and variety of uses encouraged in Downtown. The project also conforms with the following General Plan Major Strategy and policies:
- a. Major Strategy #9 Destination Downtown: Support the continued growth in the Downtown as the City’s cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan’s economic, fiscal, environmental, and urban design/place making goals.
 - b. Attractive City Policy CD-6.1: Recognize Downtown as the most vibrant urban area of San José and maximize development potential and overall density within the Downtown.
 - c. Attractive City Policy, CD-1.8: Create an attractive street presence with pedestrian building and landscape elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller footprints, to promote pedestrian activity through the City.
- Analysis: The proposed hotel expansion would enhance the mixture of uses in Downtown. The proposed project is a 63-room hotel addition, for a total of 107 rooms, which will continue to generate jobs and provide economic development. The project will provide a commercial service to the area by providing overnight accommodations for business travelers and visitors. The project is designed as an infill building addition in a vacant parking lot site to facilitate hotel expansion with attractive hotel amenities. A public eating establishment will be located at the ground floor level to enhance pedestrian activity and experience. The project’s design along the street frontage encourages pedestrian activity through the provision of pedestrian entry at each street frontage, full-height transparent windows at ground floor level and planters and landscaping along the building’s edge.*
- d. CD-1.26: Apply the Historic Preservation Goals and Policies of this Plan to proposals that modify historic resources or include development near historic resources.
 - e. LU-13.7: Design new development, alterations, and rehabilitation/remodels within a designated or candidate Historic District to be compatible with the character of the Historic District and conform to the Secretary of the Interior’s Standards for the Treatment of Historic Properties, appropriate State of California requirements regarding historic buildings and/or structures (including the California Historic Building Code) and to applicable historic design guidelines adopted by the City Council.
 - f. LU-13.8: Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.

Analysis: The project is an infill addition to an adjacent Contributor (former San Jose YMCA building) in the Downtown Commercial National Register Historic District. The project considered its adjacency with the former five-story historic YMCA building through appropriate architectural design and method of attachment at the south façade wall. The proposed six-story addition attaches to the historic building only on the south facade with no changes proposed to the Contributor along the East Santa Clara Street

facade. The proposed addition is set back from the S. Third Street façade of the contributor and will not cast a shadow across the historic five-story building's exterior facades, or otherwise negatively change the character of the historic building. The design of the proposed addition has been evaluated and meets the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings and Guidelines. The Historic Analysis considered the potential for any deterioration to the character defining features of the former YMCA Building, as discussed further below.

5. **Zoning Ordinance Compliance.** The project site is located within the Downtown Primary Commercial Zoning District. Section 20.100.610 of the City of San José Municipal Code states that a Site Development Permit is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure on any site.

a. **Use.** A hotel is a permitted use in the Downtown Primary Commercial Zoning District per Table 20-140 in Section 20.70.100 of the San José Municipal Code. This Section permits public eating establishment (restaurant) in Downtown, accessible from public sidewalk, with no parking requirement.

b. **Parking.** Per Section 20.70.100 and Table 20-140 of the San José Municipal Code for Downtown uses and parking requirements, hotel uses are required to provide 0.35 parking spaces per hotel room. The proposed project has 107 hotel rooms and would require 38 parking spaces and the project provides 38 vehicle parking spaces in compliance with the Municipal Code.

Pursuant to Section 20.70.485 and Table 20-190 in Section 20.90.060 a hotel should provide a minimum of one bicycle parking space per every 10 guest rooms. The project would provide a total of 10 total bicycle parking spaces in compliance with the bicycle parking requirements.

c. **Setbacks and Height.** Section 20.70.210 does not establish a minimum setback requirement for developments in the DC Downtown Primary Commercial Zoning District. The height of development in the Zoning District is only limited to the height limitations necessary for the safe operation of the San José International Airport and Federal Aviation Regulations Part 77. The proposed project would be approximately 70 feet in height which is in compliance with the FAA regulations.

d. **Bicycle Parking Requirement.** Pursuant to Table 20-190 (Parking Spaces Required by Land Use) contained in Section 20.90.050 of the SJMC, the bicycle parking requirement is one bicycle parking space per 10 guest rooms. Based on 107 guest rooms, the bicycle parking space requirement is 10. The project is providing 10 bicycle parking spaces and therefore, complies with this requirement.

e. **Development within or adjacent to historic landmarks or districts:**

Pursuant to Section 20.70.110.C, new structures exceeding one hundred fifty feet in height and a FAR of 6:1, which are constructed within one hundred feet of a City Landmark or contributing structure in a designated City Landmark district, shall be reviewed by the Historic Landmarks Commission (HLC) prior to consideration for approval of a development permit for new construction.

The project is an infill and an addition to a Contributor in the Downtown Commercial National Register Historic District but is not greater than 150 feet in height nor has a FAR that exceeds 6:1 and is not subject to this requirement. The maximum height of the

infill addition is 70 feet and has a FAR of 1.7 which is below the maximum 3.36 (at 6:1 ratio). The project, therefore, does not require Historic Landmarks Commission recommendation prior to a development review permit determination by the Director of Planning.

On March 20, 2019 the project was referred to the Design Review Committee (DRC) under the “Early Referral” policy. Design Review Committee consisting of three HLC members reviewed the project at a public hearing and made the following comments:

- i. The height and mass of the building is compatible and would enhance the existing pedestrian activity on East Santa Clara Street.
- ii. The addition was designed well by incorporating a slight setback of the main massing, the embracing of continuous datum lines, and the incorporation of complementary louvers, cornices, and materials.
- iii. The amount of glazing on the first floor seemed more than necessary, and that the applicant and architect may want to consider either more wall space or framing elements.
- iv. The proposed south-facing building facade only consists of smooth cement plaster and is less varied than the other proposed building facades, but the proposed color with a more textured stucco would provide adequate detail.
- v. The addition project contained all the parking on-site, which was appreciated.
- vi. The use of horizontal lines and other functional elements that carried over from the existing hotel structure was appropriate.
- vii. The restaurant area located on the frontage of Third Street should include either more solid wall area along the base of the building or additional framing around the windows to better complement the proportion of glazing on the existing Hotel Clariana structure.
- viii. The top floor may benefit from a slight setback of two to three more feet, but this was not essential.
- ix. The windows were not punched into the façade exactly as the existing Hotel Clariana windows.
- x. The metal window panel separators were not attractive, and the design did not need them, however, excluding them was not necessary for an integrated design.

The plans were subsequently revised based on DRC comments and the revised design of the new infill addition was determined by the City’s Historic Preservation Officer to adequately address the DRC comments.

5. Design Guidelines Consistency (Historic District)

The project is consistent with the Downtown San Jose Historic District Design Guidelines adopted by the City Council on November 4, 2003, available on the Planning Division website at the following link:

<https://www.sanjoseca.gov/home/showdocument?id=21889>

The project qualifies as an infill building addition to the existing commercial building listed as a Contributor in the National Register Historic District and complies with the design standards (pages 26-27) for infill construction as well as a side (Street side) addition (pages

28-29) in the following ways:

Infill construction that will affect historic properties typically is subject to review and conformance with “The Secretary of the Interior’s Standards” and “Guidelines” for the Treatment and Rehabilitation of Historic Properties, discussed further below.

- a. **BUILDING HEIGHT:** The maximum building height is four stories above grade, not to exceed 60 feet. Grand stories (floor-to-ceiling heights of 18 to 20 feet) permitted on first and second stories, when called for by use or program requirements. *Even though the maximum height within the National Register Historic District is 60 feet, the total over all height of the infill building addition will be 70 feet, which is over 10 feet or 1 percent. The addition will conform to the height requirement because majority of the square footage of the new infill building addition is outside the National Register Historic District Boundary.*
- b. **MASSING:** Massing is to be responsive in form and composition to prevailing character of the existing urban setting. At the same time, infill construction with extensive frontage on streets or alleys must be segmented into several smaller facades or buildings. *The mass and scale of the new six-story infill building addition is compatible to the existing five-story hotel building, in that the new infill construction is designed as an L-shaped, two-winged expansion connected with an interior lobby. The front façade of the infill building addition (facing west) is stepped back by one foot from the historic building but shares the same street frontage along South Third Street. The rear wing in the south eastern portion of the site is six-story in height but shares an interior court which helps break up the mass at the south façade wall.*
- c. **FACADES:** Spacing, sizing and rhythm of openings and fenestration are to be compatible with neighboring structures; by contrast, there are to be no blank facades that front onto streets, alleyways, courtyards, light courts or facades of neighboring structures with openings. All facades are to include a base or bulkhead element. *The composition of front facades of the new infill building addition has similar window fenestration with similar horizontal alignment of openings and base framework, yet differentiated with use of modern glazing, metal paneling and rectangular metal-framed windows. The new façade includes a similar base or bulkhead with a narrower metal framework enclosing the glazed sliding doors of the sit-in restaurant at street level. The south end is designed to have a 90 percent blank façade to allow the adjacent property to meet its Fire Code requirements, in-lieu of the adjacent one-story building expanding vertically in future.*
- d. **REAR FACADES:** The rear facades to be articulated and punched in a manner compatible with existing adjacent rear facades. *The addition will result in removing south and west end walls which are a non-significant feature of the historic building. The south end of new infill building addition will mostly be a blank wall, as explained before, but the rear left wing in the south east corner facing west will be well-articulated with punched openings in a manner compatible with the front façades.*
- e. **OPENINGS:** All windows and doors (with the possible exception of security, fire safety or service doors) are to be transparent and inviting to the passerby; with no mirror, tinted, frosted or opaque glazing. All windows at ground level are to include a base or bulkhead element. *The base of the new infill building addition includes a public eating establishment with 14-foot tall window glazing lined with landscaping in the new planter boxes along the street frontage, to enhance the pedestrian experience. The glazing at the west façade has paired windows with metal panels in between and metal framework. The*

glazing will be transparent and no mirror, tinted, frosted or opaque glazing is proposed.

- f. ENTRIES Historic storefront entries in the District are well defined and connect the building to the street. New entries should be similarly articulated. *The new infill building entries will be well-defined with existing columned pedestrian entryways along South Third Street.*
- g. EXTERIOR MATERIALS: Masonry, terra cotta, limestone, plaster, glass mosaic, cast stone, concrete, metal, glass and wood (trim, finishes and ornament only). The use of GFRC (glass fiber reinforced concrete), EIFS (exterior insulating finish surface), unclad concrete, lava rock or used brick is inappropriate, especially within the Downtown Commercial National Register Historic District. *The façade of the infill building addition will be of higher quality cement plaster with paired aluminum framed windows, porcelain wall tiles, painted metal panels, and louvered belly bands. The building will be painted in gray tones to appear subordinate and distinct to the existing historic building.*
- h. GROUND FLOORS: Classic elements of storefront design are to be the dominant treatment, and all strongly pedestrian-oriented. *The ground floor contains the entrance lobby and restaurant space with one entry at each street frontage to the hotel. The storefront design consists of 14 feet tall metal framed glass sliding doors to allow for sufficient interaction at the pedestrian scale level.*
- i. SETBACKS AND STEPBACKS: Not permitted. The six-story new hotel building is considered an infill construction and will occupy the empty parking lot along the south third street frontage. *The new building has a minimal one-foot setback from the historic building to respect the character defining features such as the cornice return at roof level and will be connected to the historic building via an interior lobby and utility space.*
- j. PEDESTRIAN PASSAGEWAYS: Strongly encouraged, with minimum of one each for infill construction that replaces at-grade, paved parking lots. *passageways to be “lined” with retail storefronts and/or active display cases. The proposed expansion will occupy a vacant parking lot and is considered an infill construction to the rear of the existing historic building. A public eating establishment with floor to ceiling glazing at the ground floor level will activate the street frontage along South 3rd Street. Pedestrian entryways to the new expanded building are provided from East Santa Clara Street as well as South Third Street and South Fourth Street.*
- k. VEHICULAR ACCESS: One each for infill construction. *The vehicle one-way driveway access (porte cochere) for passenger loading and surface parking spaces is from South Third Street, with entry/exit from a two-way ingress/egress driveway on South Fourth Street.*
- l. PARKING: No new surface or visible above-grade parking; valet services to be provided as appropriate or required. *The new building will occupy an existing parking lot such that the required parking spaces are proposed to the rear of the new hotel expansion, not visible from East Santa Clara Street or South Third Street. The parking lot is accessed from South Fourth Street as well, as mentioned above. The total parking requirement is met on site.*

Side Addition Design Standards:

When considering the design for an exterior addition, it is critical to think of the new design in terms of its relationship to the historic building as well as to its setting, that is, character-defining features of the Downtown San Jose Historic District. Design for the new work may

be contemporary or may reference design motifs from the historic building. In either case, it should always be clearly differentiated from the historic building and be compatible in terms of mass, materials, relationship of solids to voids, and color.

Side Additions: The guidelines for the design, size, height, massing and materials for an appropriate side addition to a historic building correspond to the design guidelines for Infill Construction. Essentially, the character-defining features of the historic building (and adjacent historic buildings) provide the principal guidance for design, location and materials of the side addition. Such character-defining features are likely to include equal floor-to-ceiling heights as well as building height for the new addition and existing building. In addition, the size, number and pattern or distribution of openings (doors and windows); use of materials; level of craftsmanship; presence of trim elements—parapets, belt courses, pediments; and the prominence and location of building and storefront entries should be compatible between the new addition and the existing building. Principal Objective: Make the side addition compatible with the historic building but differentiate it so that it clearly cannot be confused with the historic building.

Analysis:

- a. *The proposed new Street side and infill building addition to a Contributor in the NRHD occurs on a blank wall adjacent to the South Third Street facade.*
 - b. *On the west side (front facade of the proposed addition), the infill building addition is offset by a foot at the west facade of the historic building to clearly define the extent of the historic building and preserve the cornice return of the historic building.*
 - c. *The proposed design for the new infill building addition does not change, detract or diminish any of the character-defining features of the historic YMCA building.*
 - d. *The project preserves the character-defining features of the prime facades along East Santa Clara Street and South Third Street. No changes are proposed for the existing historic building, which will remain intact.*
 - e. *The proposed addition is of a different but compatible style clearly definable as a new building and distinct from the historic resource and those of the historic district.*
 - f. *The connection between the old and new buildings is a minimal attachment with openings for connecting corridors that will remove a blank wall and will not change the character defining features or the structure of the historic resource. The proposed design is compatible in materials and horizontal elements and does not overwhelm the historic building.*
 - g. *The addition is a separate building. If the addition is removed, the historic building can be easily repaired without damage to the character defining features or the structure of the historic building.*
 - h. *The proposed Street side addition to the historic building meets the criteria of the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, as discussed further below.*
6. **Secretary of Interior's Standards.** This Permit was reviewed in conformance with the ten standards of Secretary of the Interior's Standards, as follows:
- a. *A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.*

The south addition to the historic building was demolished many years ago, where the proposed addition will be located. The proposed infill building addition will be attached to a blank south wall of the historic building and will not remove any character defining features. The addition will fill the vacant parking lot space and improve the urban streetscape.

- b. *The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*

The proposed infill building addition does not remove or obscure the character-defining elements of the historic building's two primary facades along East Santa Clara Street and South Third Street. The existing historic building facades will remain unchanged.

- c. *Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.*

The new infill building addition to the historic building does not create a false sense of historical development and is compatible with the materials and horizontal blocks of the historic building in a contemporary design that does not include historic elements from past eras. No conjectural features or architectural elements have been added to create a false sense of historical development.

- d. *Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.*

The proposed addition will not affect the character defining features of the existing historic building.

- e. *Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.*

Those areas of historic features that are found on the exterior of the historic building on the East Santa Clara Street and South Third Street facades and window openings at the east facing elevation, will remain intact. The proposed addition is recessed sufficiently behind the historic building on South Third Street to retain the historic corner and cornice of the historic YMCA building. The removal of the south end wall of the historic building does not change the character defining features of the historic building.

- f. *Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.*

The scope of the proposed infill building addition does not include any changes to the historic building. The building preserves the existing historic craftsmanship and materials which will not be affected with the new expansion. The new modern addition will be compatible yet different and will allow the different eras and uses to be represented.

- g. *Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.*

The proposed infill building addition does not affect and will not use any chemical treatment on the existing historic building.

- h. *Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.*

There is no new excavation under the historic building. It is unlikely that significant archeological resources will be found during the excavation. Should archeological materials be found State Law shall be followed pursuant to CEQA conditions.

- i. *New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.*

The plan proposes an addition to the south end wall of the historic building. This covers the same area where the addition (gymnasium and rooms) was previously constructed and attached to the historic building. The proposed addition extends to the south and to the east into a parking lot. The addition is six stories, one level higher than the historic building. The sixth floor is an open garden on its north end creating a separation from the historic building. This feature makes it compatible with the historic building and fits within the urban setting and the Historic District overall. The addition is more contemporary in character with the use of modern materials and is, therefore, differentiated from the historic building in design; however, it is compatible by maintaining the horizontal blocks of the historic building while not copying the architectural details or ornamentation. The addition is compatible in scale and mass to the historic building as it is of similar height and width.

The proposed project does not destroy historic materials that characterize the YMCA building. The proposed addition has a blank wall on the south facade with the exception of the ornate cornice return at the roof line. The original historic YMCA building connected to a multi-story gymnasium building which was removed almost 40 years ago and the wall was patched and covered with smooth stucco that created the existing blank facade. This is also the treatment for a portion of the east facade of the historic building (in the current parking lot). The south and portion of east facade, with the exception of a cornice return are without ornamentation or design qualities, and therefore, the expansion on these sides will maintain the integrity of the historic building and will not destroy the historic materials that characterize the property.

- j. *New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

The proposed addition is a separate building with a separate structure. The connection to the historic building is on the south and a portion of east walls of the historic building, internally connected and will appear to be a separate six-story building expansion. If the proposed addition were to be removed it would not impair the structure or character-defining elements of the historic YMCA building.

6. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and

Analysis: As described above, the project is consistent with and will further the policies of the General Plan designation of Downtown.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As further described in the Zoning Ordinance compliance section above, the project complies with the Zoning Code with respect to setback requirements, off-street parking requirements, bicycle parking requirements and height requirements.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project is consistent with the Public Noticing and Public Outreach City Council Policies. The project has had the on-site signs posted on the project since August of 2017. The project has been noticed for public hearing to a radius of 500 feet, consistent with the Public Outreach City Council Policy. The project has been evaluated and is consistent with Policy 6-29 (Post-Construction Urban Runoff Management) by providing seven bioretention areas.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project contains a single use on one property (a combined three-parcel site), which is a hotel use. The design of the hotel expansion is a contemporary addition with sensitivity to the horizontal bands and patterns of the former YMCA historic building (Hotel Clariana) without copying historic features. The design is a compatible addition to the historic building on site. The development of the new building does not modify, alter or change the existing historic resource which is a Contributor in the Downtown Commercial National Register Historic District. The new infill building addition maintains a street frontage and presence along South Third Street and the hotel has pedestrian entrances at street frontages along East Santa Clara Street and South Third Street. The vehicle entrance for passenger loading and parking is from South Third Street as well as South Fourth Street. The restaurant is at ground level which encourages vibrancy and pedestrian activity at street level. The uses on-site are mutually compatible and aesthetically harmonious.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project site is an infill site, located within San Jose Downtown Commercial District and surrounded by a mix of commercial and residential land uses of varying ages, heights and architectural styles. The architecture in the neighboring San Jose Downtown Commercial District is comprised of several architectural styles that span from the 1870s to the 1920s, including Italianate, Romanesque Revival, Classical Revival, Spanish Revival, and Streamline Moderne. While the project is proposing a compatible architectural style to the adjacent historic building, which was built in 1913 and designed in the Beaux Arts architectural style, many of the modern materials and complimentary colors utilized in the new addition are present in the neighborhood. The project utilizes gray tone colors in contrast to the existing vibrant historic building colors to provide a contrast. The basic massing and size of the proposed six-story building is compatible with the five-story historic building as well as other two-three story commercial buildings

located to the north, across East Santa Clara Street, to the west across South Third Street, as well as a four-story residential building to the south. The six-story massing is interspersed with uniform rectangular window fenestrations including a set back above the fifth floor with terraced railing that provides a visual break and does not overwhelm the adjacent or the surrounding historic buildings.

The project design and building expansion incorporate a ground floor store front façade that continues the existing pattern of glazed openings and storefront heights established by the adjacent historic YMCA building fronting on both East Santa Clara Street and S. Third Street. The proposed storefront height is compatible with the stone-based storefront of buildings across South Third Street (Odd Fellows building) and other two-story commercial buildings at the intersection at East Santa Clara Street and South Third Street.

The building's scale is consistent with the adjacent historic building when viewed from street frontage. The proposed building expansion will have a 14-foot ceiling height at ground floor level with commercial restaurant space, consistent with other such retail and restaurant uses of the surrounding buildings in Downtown. For the reasons stated above, the orientation, location and elevation of the proposed building expansion and uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The construction of the six-story 63-room hotel expansion will not have an unacceptable negative affect on the adjacent properties, in that it is located in Downtown San Jose within transit priority area and the building design meets Secretary of Interiors Standards, as discussed above. In addition to an Addendum prepared pursuant to the California Environmental Quality Act (CEQA), the project was also evaluated per adopted stormwater requirements and has been found in compliance by providing biotreatment areas on the project site. Additionally, the proposed hotel use is not anticipated to create odor as much of the activity occurs indoors. Lastly, noise and ground vibration related to construction and demolition are the only anticipated temporary noise sources.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project is also proposing various site improvements which will upgrade the appearance. The site improvements include, but not limited to, new planter boxes along street frontages, new landscaping (including new trees) in the parking lot, public amenities, and a newly paved parking lot. The trash enclosure is proposed to the south of the drive aisle and will be adequately screened from view. All mechanical equipment is located within the building structure, concealed by exterior walls, louvers and doors, or located on the roof of the building where it will be set back to minimize visibility.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: A one-way drive aisle to the entry court parking lot is provided at the south end under the building. The entry court parking lot provides parking spaces for guests checking-in to the hotel. East of the entry court, a drive aisle will provide access to a

parking lot along the east project frontage. All vehicles exit the site via the Fourth Street two-way driveway. The Fourth Street driveway also will provide direct access to the on-site parking lot. The existing streets and utilities would be of sufficient capacity to serve the proposed expansion of a commercial use. The project has been reviewed by the Public Works Department and the Department of Transportation. With the approved off-site improvements being provided, the project will be adequately served by the proposed driveway widths and existing street connections.

The project is proposing pedestrian access off East Santa Clara Street and South 3rd Street by providing entryways from the existing public sidewalks, which will be reconstructed/replaced as necessary to accommodate the construction phase of the project. The project provides adequate vehicle and bicycle parking as per the Municipal Code standards. The existing sidewalks and pedestrian facilities have good connectivity and provide pedestrians with safe routes to the surrounding pedestrian destinations in the area. The project is in close proximity to major transit services that will provide the opportunity for multi-modal travel to and from the project site. Third Street, Fourth Street, and San Fernando Street are designated Downtown Pedestrian Network Streets (DPNS), which are intended to support a high level of pedestrian activity as well as retail and transit connections. The DPNS streets provide a seamless network throughout the downtown that is safe and comfortable for pedestrians and connects all major downtown destinations.

7. Environmental Review.

Analysis: The environmental impacts of this project were addressed by the Downtown Strategy 2040 Final Program Environmental Impact Report adopted by City Council Resolution No. 78942 on December 18, 2018. The proposed project is eligible for an addendum pursuant to CEQA Guidelines §15164, which states that, "A lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in CEQA Guidelines §15162 calling for preparation of a subsequent EIR have occurred. The entire IS/Addendum, Responses to Comments, and other related environmental documents are available on the Planning web site at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/hotel-clariana>

No odors are associated with the operation of the hotel use. The project will not cause any negative effect due to storm water runoff, drainage and erosion controls per the Final Memo issued by the Department of Public Works dated 1/29/2020.

Traffic Impacts related to the project, located in Downtown Core, were analyzed with an operational analysis with a Local Transportation Analysis performed for this project based on 33 AM and 48 PM trips. No further CEQA traffic analysis was required based on the Traffic Memo dated 6/21/19 for the project.

The vibration and noise associated with construction will be temporary in nature which will last only during the construction period. The construction hours will be limited to 7:00 a.m. to 7:00 p.m. Monday to Friday, as stated in the environmental permit conditions.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have approved this Permit except upon and subject to each and all of said conditions,

each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit for construction and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Conformance to Plans.** Development of the site shall conform to the approved Site Development Permit plans entitled "Hotel Clariana, San Jose, CA" dated received January 12, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.

6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.
8. **Trash.** All trash areas shall be effectively screened from view, shall be covered or shall consist of self-contained weather tight compactor(s), and shall be maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
9. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
10. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
11. **Anti-Graffiti.** During construction, the applicant shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
12. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
13. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
14. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
15. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
16. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
17. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
18. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
19. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape

and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

20. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, LED fixtures as shown in the Approved Plan Set. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property. All proposed changes shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
21. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately.
22. **Air Quality.** During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded area, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 miles-per-hour (mph).
 - e. Sandbags or other erosion control measures shall be installed to prevent silt runoff on public roadways.
 - f. Wheel washers shall be installed for all exiting trucks, or tires or tracks of all trucks and equipment shall be washed off before leaving the site.
 - g. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - h. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - i. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - j. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulation.
23. **Santa Clara Valley Habitat Plan.** The project is subject to applicable Santa Clara Valley Habitat Plan (SCVHP) conditions and fees (including the nitrogen deposition fee) which are payable to the City of San José. The project applicant shall pay all required SCVHP fees prior to issuance of grading permit. The project applicant shall submit a SCVHP Coverage Screening Form or Nitrogen Deposition Only Application Form (if no land cover fees apply) to Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement

for review and shall complete all required subsequent forms, reports, and/or studies as specified in the SCVHP.

24. Cultural Resources

- a. During construction, the City shall ensure that the project proponent requires all construction personnel receive paleontological awareness training that includes information on the possibility of encountering fossils during construction, the types of fossils likely to be seen, based on past finds in the project area and proper procedures in the event fossils are encountered. Worker training shall be prepared and presented by a qualified paleontologist.
- b. If vertebrae fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The City will be responsible for ensuring that the project sponsor implements the recommendations of the paleontological monitor regarding treatment and reporting. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

25. **Grading.** All excavation and grading work shall be scheduled in dry weather months or construction sites will be weatherized. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting. Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

26. Hazards

- a. In accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines, an asbestos survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If asbestos-containing materials are determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of BAAQMD. Demolition and disposal of ACM shall be completed in accordance with the procedures specified by BAAQMD's Regulation 11, Rule 2.
- b. A lead-based paint survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If lead-based paint is identified, then federal and State construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified at the building, it shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations. Requirements set forth in the California Code of Regulations will be followed during demolition activities, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the waste being disposed.

27. Federal Aviation Administration (FAA) Clearance.

- a. Prior to filing an application for a Building Permit, the Permittee shall obtain from the Federal Aviation Administration (FAA) a "Determination of No Hazard" clearance for the highest building point. The Permittee shall initiate the regulatory FAA review by filing a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for the

proposed building high point. The data on the form should be prepared by a licensed civil engineer or surveyor using NAD83 latitude/longitude coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.

- b. The Permittee shall also comply with any FAA conditions identified in the Determination of No Hazard clearance (once issued). If the FAA requires a completed construction notification via filing of a “Notice of Actual Construction” (FAA Form 7460-2), such filing shall be completed prior to City issuance of a Certificate of Occupancy.

28. **Noise.** The project shall install noise insulation features to maintain interior noise levels at acceptable levels (45 dBA DNL). A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase of the project pursuant to requirements set forth in the General Plan and CBC. The analysis shall evaluate the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower and reduce levels to the established criteria for the business and commercial uses. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. Preliminary calculations show that sound-rated windows with minimum STC Ratings of 35 would be satisfactory for units closer than 100 feet from the center of South First Street to achieve acceptable interior noise levels. All other units would be expected to require windows with STC ratings below this level. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the Director of Planning or Director’s designee of the Department of Planning, Building and Code Enforcement, along with the building plans and approved design, prior to issuance of a building permit.

29. **Water Quality – During Construction**

- a. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- b. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- c. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- d. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- e. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks would be required to maintain at least two feet of freeboard.
- f. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily with water sweepers.
- g. Vegetation in disturbed areas shall be replanted as quickly as possible.
- h. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.

- i. As the project is regulated by the Statewide Construction General Permit, it shall be subject to the requirements of that permit related to construction-period pumped groundwater discharges.
 - j. Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or bioretention unit that is properly designed to accommodate the volume of pumped groundwater or discharged to the sanitary sewer. Discharge to the sanitary sewer would require review by the City's Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as outlined in the City's Stormwater Permit - Provision C.15.b.i(2)(c)-(e). Pre-discharge sampling data collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San José.
 - k. Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San José with the Building Permit application submittal.
30. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
31. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit for a new building (excluding façade improvements to the existing buildings), the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, H17-059, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.
 - d. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
32. **Fire Flow.** Required fire flow for the site is approved by the Fire Chief. Any changes to project require a re-review and approval by the Fire Chief.

33. **Fire Hydrants.** Prior to the issuance of building permits, number of Public (off-site) and private (on-site) fire hydrants and their locations need approval through a Fire Variance and to the satisfaction of the Fire Chief.
34. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways will be confirmed at time of building permit review to the satisfaction of the Fire Chief.
35. **Fire Department Access.** Prior to the issuance of any building permits, fire equipment access needs approval through a Fire Variance and to the satisfaction of the Fire Chief.
36. **Mitigation Measures**

a. **Air Quality**

- i. MM AIR-1.1: The project applicant shall ensure that all diesel-powered off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously (or 20 hours in total) shall meet, at a minimum, one of the following:
- 1) U.S. EPA particulate matter emissions standards for Tier 4 interim engines or equivalent;
 - 2) Use of equipment that is electrically powered or uses non-diesel fuels would meet this requirement; or
- ii. Other measures may be the use of added exhaust devices; or a combination of measures, provided that these measures are demonstrated to reduce community risk impacts to less than significant. In addition, the project applicant shall implement the following:
- 1) The line power for electricity at the site shall be established prior to any major construction activity.
 - 2) Cranes and welders shall be powered by electricity.
 - 3) Diesel generator use shall be restricted to 100 hours or less for the entire construction period.
 - 4) Enforce idling limit of two minutes unless subject to state law exemptions (e.g., safety issues).
- iii. MM AIR-1.2: The project applicant shall submit to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee a construction operation plan that includes specifications of the equipment to be used during construction prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest). The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth above.

b. **Cultural Resources**

- i. MM CUL-1.1: Subsurface testing shall be completed by a qualified archaeologist after asphalt has been removed, but prior to any ground disturbing activities (including grading, potholing for utilities, and building foundation removal) to examine the locations of the previous outbuildings. At least one trench shall be mechanically excavated below existing stratigraphic layers to eliminate the potential for Native American deposits and paleosols.

- ii. If any ground disturbing activities need to be completed prior to presence/absence work, an archaeological monitor shall be present to observe all these disturbances. If any archaeological deposits discovered appear eligible to the California Register of Historical Resources (CRHR) during any stage of exploration or monitoring, an archaeological research design and work plan shall be prepared to facilitate archaeological excavation
- iii. MM CUL-1.2: A qualified archaeologist shall prepare an Archaeological Resources Treatment Plan (ARTP) for the project site prior to issuance of any demolition or grading permits. The project applicant shall ensure implementation of the ARTP, prior to ground disturbance activities. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources. The treatment plan shall be prepared and submitted to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement. The ARTP shall contain, at a minimum:
 - 1) Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
 - 2) Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
 - 3) Detailed field strategy used to record, recover, or avoid the finds and address research goals.
 - 4) Analytical methods.
 - 5) Report structure and outline of document contents.
 - 6) Disposition of the artifacts.
 - 7) Appendices: all site records, correspondence, and consultation with Native Americans, etc.
- iv. MM CUL-1.3: All historic-era features identified during exploration shall be evaluated by an archaeologist based on the California Register of Historical Resources criteria consistent with the ARTP. After completion of the field work, all artifacts shall be cataloged, and the appropriate forms shall be completed and filed with the Northwest Information Center of the California Archaeological Inventory at Sonoma State University.
- v. MM CUL-1.4: In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified immediately and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are believed to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours of the identification. The NAHC shall then designate a Most Likely Descendant (MLD). The MLD shall inspect the remains and make recommendations regarding proper burial (including the treatment of grave goods), which shall be implemented in accordance with Section 15064.5(e) of the California Environmental Quality Act (CEQA) Guidelines.

- vi. The archaeologist shall recover scientifically valuable information, as appropriate and in accordance with the recommendations of the MLD. A report of findings documenting any data recovery shall be submitted to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center at Sonoma State University.

37. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Assessments:**
 - i. This project is located within the Premium Zone of the Downtown San José Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. Benefiting properties within the district pay for the services through annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The assessment is calculated based on the land use and its building and lot square footages. For 2017-18, commercial properties pay \$0.114720906 and residential properties pay \$0.092461315 per building and lot square footages. Future year assessments will be adjusted accordingly and will continue to be collected through the County property tax bills listed under Tax Code 916 "SJ DOWNTOWN PBID". Any questions may be directed to Thomas Borden at (408) 535-6831.
 - ii. This project proposes a hotel use. The City of San José, on September 30, 2008 implemented a special tax for Convention Center Facilities District (CCFD) No. 2008-1 for all existing hotel properties with the intent that future hotel properties would participate as well. The special tax was authorized to be levied on hotel properties for the purpose of paying for the acquisition, construction, reconstruction, replacement, rehabilitation and upgrade of the San Jose Convention Center. The special tax is levied and collected in addition to and in a manner similar to the City's Transient Occupancy Tax. The special tax may not be apportioned in any tax year on any portion of property in residential use in that tax year, with the understanding that transient occupancy of hotel rooms is not residential use. The base special tax is 4% of gross rents and may be subject to an additional special tax up to 1% of gross rents. Please contact Thomas Borden at (408) 535-6831 to coordinate the annexation process.

c. **Transportation:**

This project is located in the expanded Downtown Core and is covered under the new San Jose Downtown Strategy 2040 EIR; therefore, no CEQA traffic analysis is required. However, the project performed a Local Transportation Analysis to identify any operational issues.

A Local Transportation Analysis has been performed for this project based on 33 AM and 48 PM peak hour trips. See separate Traffic memo dated 6/21/19 for additional information. Project to provide contribution in the amount of \$26,000 towards Better Bikeways Improvements.

d. **Grading/Geology:**

- i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.
- iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

e. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
- ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- iii. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following:
<https://www.sanjoseca.gov/Home/ShowDocument?id=27405>

- f. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- g. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- h. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- i. **Undergrounding:** There are no existing overhead utilities along the project frontage or across the street from project frontage, therefore the in-lieu undergrounding fee is not required.
- j. **Street Improvements:**
 - i. Construct 15' wide attached sidewalk with 4'x5' tree wells at the back of curb along the South 3rd Street project frontage where the building addition begins.
 - ii. Provide approximately 1' street easement along the South 3rd Street project frontage, where necessary.
 - iii. Construct 12' wide attached sidewalk with 4'x5' tree wells at the back of curb along the 4th Street project frontage.
 - iv. Construct 16' wide directional entry-only driveway on 3rd Street project frontage per City Standards.
 - v. Construct City standard hooded inlet along 3rd Street.
 - vi. Reconstruct existing driveway on the 4th Street project frontage to be 20' wide City standard driveway.
 - vii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - viii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
 - ix. Close unused driveway cut(s).
 - x. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - xi. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - xii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- k. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable

Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

- i. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:
 - 1) **Site Utilization Plan and Letter of Intent:** The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description operation of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are proposed within the Public right-of-way can't occur within the construction site. These include the use of the right of way for temporary facilities and activities such as man lifts, baker tanks, staging area, concrete pumping activities, etc. This would also provide a discussion as to the reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).
 - 2) **Multi-Phased Site-Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
- ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
 - 1) Implementing the closures at the time the onsite activities dictate the need for the closure.
 - 2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in condition a.ii above.
- iii. If proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at:
<http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
- l. **SNI:** This project is located within the University SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- m. **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
- n. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- o. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of

City Streetscape Projects”. Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

38. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - The use as presently conducted creates a nuisance.

APPROVED and issued on this **11th day of March, 2020.**

Roselynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy